



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/166642

PRELIMINARY RECITALS

Pursuant to a petition filed June 15, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Eau Claire County Department of Human Services in regard to Child Care, a hearing was held on July 21, 2015, at Eau Claire, Wisconsin.

The issue for determination is whether the petitioner can receive Child Care Benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: Kathy Welke

Eau Claire County Department of Human Services
721 Oxford Avenue
PO Box 840
Eau Claire, WI 54702-0840

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.
2. The petitioner has not been able to work since January 6, 2015, because of medical restrictions.
3. The petitioner enrolled in the W-2 program on January 22, 2015, but has not participated in any of its activities because of her medical problems.

4. The county agency has denied Child Care Benefits to the petitioner because she does not participate in any approved activities.

DISCUSSION

Child Care Benefits are provided to W-2 participants involved in approved activities. Wis. Stat. § 49.155(1m)(a). Those out of work for medical reasons can receive benefits if they intend to return to work with the same employer. Benefits while out of work cannot last more than six weeks. *Child Care Manual*, § 3.11.2.

Health problems have prevented the petitioner from working since January 2015. She did receive benefits last winter after enrolling in the W-2 program, but these benefits ended after the agency determined that it had incorrectly allowed the benefits because she was not participating in any approved activity. She plans to return to work in September and hopes to receive assistance then, but she is not currently seeking any. She filed this appeal because an agency worker told her that it would probably bring an overpayment claim against her for some of the benefits she received last winter.

As I pointed out in the hearing, if the agency brings an overpayment claim against her, she can appeal that claim then. But until the claim is brought and she files an appeal, I have no authority to rule on it. The only thing I can determine is whether she is currently entitled to Child Care Benefits. Because she is not actually participating in any approved activity, she is not. Therefore, I must dismiss her claim.

CONCLUSIONS OF LAW

1. The Division of Hearings and Appeals cannot consider whether the petitioner received an overpayment of medical assistance because there is no overpayment claim before it.
2. The petitioner is not entitled to Child Care Benefits because she is not participating in any approved activity.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

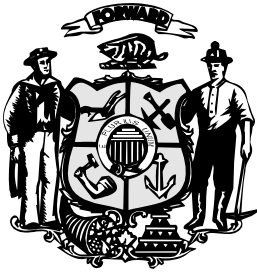
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of

Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 27th day of July, 2015

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 27, 2015.

Eau Claire County Department of Human Services
Child Care Benefits